

### REMARKS

The Applicant appreciates the thorough review of the Application by the Examiner. Reconsideration and allowance of all claims as amended is respectfully requested. By this Amendment, Claims 1, 6 - 8, and 10 have been amended and Claim 5 has been canceled. Although Applicant disagrees with the rejections of record, in the interest of expediting prosecution Claim 1 has been combined with Claim 5 and its patentable features have been further distinguished. Claims 6 - 8 and 10 have been amended for clarity and consistency and to overcome the 35 U.S.C. 112, second paragraph rejections. Claims 1 - 4 and 6 - 10 are now pending in the Application. No new matter has been added by the amendment. No new issues are raised by the amendment.

**Claims 1 - 3, 5, and 7 are patentable under 35 U.S.C. 103(a) over Smith (U.S. Patent 5,235,712) in view of Williamson (U.S. Patent 6,006,376).**

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 1 as amended is distinguished from the references at least in that it teaches that the hoisting mechanism is constituted by two rigid lifting arms that are pivotably mounted at the top section of the frame, and where each rigid lifting arm is arranged with a linear actuator between

the arm and an adjacent end section of the frame. No references, taken alone or in combination, teach or suggest these limitations.

Smith teaches an apparatus for bathing a bedridden patient. Nowhere in the description is lifting or transporting a person in an upright sitting position mentioned. Moreover, there are no hints that would lead a skilled person to such a solution. Furthermore, the various operations are done by activating winding bars with straps attached to spacing bars and support straps.

Williamson discloses an apparatus for bringing a person from a lying position into an upright sitting position and for transporting this person. This apparatus can telescope in lateral and longitudinal direction, but is still a rather complex and closed structure, which requires a fair amount of space to maneuver. This apparatus cannot be used for transporting a person from a wheelchair and into e.g. a seat in an airplane.

In contrast, in the present invention rigid lifting arms are used which are pivotally fixed to the top section and interconnected to actuators, e.g. linear actuators from the Danish company Linak A/S. As such the "arms" are not flexible straps, but rigid arms. No reference teaches or suggests rigid lifting arms pivotally mounted at a top section or linear actuators between the arms and the adjacent end section. A review of the figures of the present invention and of the references clearly reveals the structural differences that lead to improved characteristics in the present invention.

At least because the references do not teach or suggest all the claim limitations, Claim 1 is patentable under 35 U.S.C. 103(a) over all references. Claims 2 - 3 and 7 depend from Claim 1 and add further patentable limitations. For at least the above reasons, the rejection of Claims 1 - 3 and 7 under 35 U.S.C. 103(a) over Smith in view of Williamson is improper and should be withdrawn.

**Claims 4 and 6 are patentable under 35 U.S.C. 103(a) over Smith (U.S. Patent 5,235,712) in view of Williamson (U.S. Patent 6,006,376) and further in view of Dunn (U.S. Patent 5,845,348).**

Claims 4 and 6 depend from independent Claim 1 and add further patentable limitations. For at least the above reasons, the rejection of Claims 4 and 6 under 35 U.S.C. 103(a) over Smith in view of Williamson and further in view of Dunn is improper and should be withdrawn.

**Claims 8 and 9 are patentable under 35 U.S.C. 103(a) over Smith (U.S. Patent 5,235,712) in view of Williamson (U.S. Patent 6,006,376) and further in view of Du-Bois (U.S. Patent 5,509,159).**

Claims 8 and 9 depend from independent Claim 1 and Claim 7 and add further patentable limitations. For at least the above reasons, the rejection of Claims 8 and 9 under 35 U.S.C. 103(a) over Smith in view of Williamson and further in view of Du-Bois is improper and should be withdrawn.

**Claim 10 is patentable under 35 U.S.C. 103(a) over Smith (U.S. Patent 5,235,712) in view of Williamson (U.S. Patent 6,006,376) and further in view of Elmick (U.S. Patent 2,035,116).**

Claim 10 as amended depends from independent Claim 1 and adds further patentable limitations. For example, Claim 10 adds that each end section is provided with at least one transverse bend along a horizontal line, so that the geometry of each end section provides an offset of the position of the pair of swivelling wheels of the end section from a vertical plane passing through the line of intersection of the end section and the top section, wherein each of the end sections has an inclined part.

The Examiner allows that neither Smith nor Williamson teaches or suggests this feature, taken alone or in combination, citing to the rounded top of the end sections of Elmick as teaching this limitation. The rounding of Elmick does not provide an offset of the position of the pair of swivelling wheels of the end section from a vertical plane passing through the line of intersection of the end section and the top section, and the end sections of Elmick do not have an inclined part.

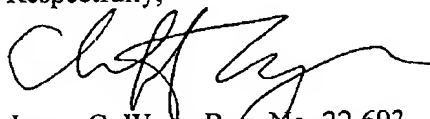
The bends discussed in Claim 10 are completely different from the bends known from Elmick. As disclosed in the description, the bends are made to have the apparatus fit between permanent seat rows e.g. in an aeroplane or a bus, and not to lower the cost as suggested by the Examiner. Claim 10 has been amended to clarify the nature of the bends. A part of the end sections is at an inclined angle as shown in the Figures 1 and 2. Furthermore, the telescoping function in the top section is used to adjust the length of the apparatus to fit between seat rows in an airplane or bus and to shorten and lengthen the apparatus during transport, whereby a more secure and/or maneuverable apparatus is obtained.

For at least the above reasons, the rejection of Claim 10 under 35 U.S.C. 103(a) over Smith in view of Williamson and further in view of Elmick is improper and should be withdrawn.

### CONCLUSION

Reconsideration and allowance of all claims are respectfully requested.

Respectfully,



James C. Wray, Reg. No. 22,693  
Clifford D. Hyra, Reg. No. 60,086  
1493 Chain Bridge Road, Suite 300  
McLean, Virginia 22101  
Tel: (703) 442-4800  
Fax: (703) 448-7397

Date: April 30, 2008